



## **II. THIS NOTICE IS TIMELY FILED**

3. This removal is timely because it is filed within thirty days of receiving the copy of the initial pleading. 28 U.S.C. § 1446(b)(1) (2011). The Complaint was filed on October 31, 2014. Defendant Liberty was served through its Registered Agent on November 6, 2014.

## **III. REMOVAL PROCEDURES**

4. Removal of this case is proper under 28 U.S.C. § 1441(a), which provides in pertinent part, that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a) (2011).

5. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1441(a). Liberty seeks to remove this case to the United States District Court for the Eastern District of Tennessee. The Circuit Court of Hamilton County, Tennessee is located within this District and cases arising from Hamilton County are properly assigned to the Southern Division of this Court. *See* 28 U.S.C. § 123(a)(3).

6. In compliance with 28 U.S.C. § 1446(a), a copy of all “process, pleadings, and orders” received by Liberty is attached hereto as **Exhibit A**.

7. No previous notice of removal has been filed.

8. Defendant has filed this Notice of Removal with this Court, is contemporaneously serving a copy of the Notice of Removal upon Plaintiff, and is filing a copy of this Notice of Removal in the Hamilton County, Tennessee Circuit Court pursuant to 28 U.S.C. § 1446(d). A copy of the Notice of Filing Removal that is being filed with Hamilton County Circuit Court is attached hereto as **Exhibit B**.

#### **IV. THIS COURT HAS DIVERSITY JURISDICTION**

9. This Court has original jurisdiction over this action under 28 U.S.C. § 1332, which provides: “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between – (1) citizens of different States.” 28 U.S.C. § 1332.

10. Pursuant to 28 U.S.C. § 1441(b), “[a]ny other such actions shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.”

11. Plaintiff is a citizen and resident of Harrison, Hamilton County, Tennessee. (Compl. ¶ 1.)

12. Defendant Smith is a resident of Rossville, Walker County Georgia. (Compl. ¶ 1.)

13. Liberty is a company organized under the laws of the State of Illinois with principal place of business in Boston, MA.

14. Defendant Smith has given her consent to the removal of this case to federal court. *See* Consent of Removal filed contemporaneously herewith.

15. Accordingly, complete diversity of citizenship exists between the parties because Plaintiff is a citizens of Tennessee, Defendant Smith is a citizen of Georgia and the Defendant Liberty is a resident of Massachusetts.

16. The amount in controversy requirement is also satisfied. In his Complaint, Plaintiff seeks damages in the amount of \$500,000.00, including pre-judgment and post-judgment interest. (Compl. at Ad Damnum).

## VI. CONCLUSION

WHEREFORE, Liberty respectfully requests the above-captioned action now pending in the Circuit Court for Hamilton County, Tennessee, be removed to the United States District Court for the Eastern District of Tennessee, that this Court assume jurisdiction of this action and enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

Respectfully submitted,

/s/ John R. Wingo

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## **CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of December, 2014, a copy of the foregoing *Notice of Removal* was filed with the Clerk's office and served electronically and/or via first-class U.S. mail, postage prepaid, upon the parties as indicated below. Parties may also access this filing through the Court's ECF system.

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